

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

Cody, et al)	
)	
)	
)	
v.)	No. 09-4175-CV-C-SOW
)	
)	
Nixon, et al)	
)	
)	

**ORDER GRANTING PLAINTIFF PROVISIONAL
LEAVE TO PROCEED IN FORMA PAUPERIS AND DIRECTING
PLAINTIFF TO CORRECT TECHNICAL DEFECTS IN COMPLAINT**

The above-captioned complaint was provisionally filed on August 26, 2009, pursuant to the Court en Banc Order of October 21, 1997. Due to certain technical defects, however, the complaint cannot be further processed until such defects are corrected.

To assure further consideration of the complaint, PLAINTIFF MUST CORRECT THE DEFECT(S) LISTED BELOW. **FAILURE TO CORRECT DEFECTS WILL RESULT IN DISMISSAL OF PLAINTIFF'S COMPLAINT.**

_____ **Plaintiff has failed to include the \$350.00 filing fee. Plaintiff has the choice of tendering the \$350.00 fee of the Clerk of the Court or submitting an affidavit in support of request to proceed in forma pauperis. If plaintiff chooses to do the latter, the enclosed pauper's forms should be completed and returned to this court.**

_____ Although plaintiff has submitted the "In Forma Pauperis Affidavit," plaintiff has failed to enclose a certified copy of plaintiff's trust fund account for the six-month period immediately preceding the filing of the complaint and/or the Authorization for Release of Institutional Account Information and Payment of the Filing Fee. The Authorization must be signed by plaintiff.

_____ Although plaintiff has submitted the "In Forma Pauperis Affidavit," plaintiff has failed to sign it. Plaintiff must sign and return to this Court the enclosed affidavit and/or authorization.

X **The Civil Rights Complaint is technically deficient in the following respects:**

_____ Prisoner complaints, pursuant to 42 U.S.C. § 1983, must be filed on forms approved by this Court. Plaintiff must complete the enclosed court-approved forms and return them to this Court.

 X The complaint has not been sworn to under oath. Plaintiffs must verify the complaint and return it to this Court.

_____ Other:

It is plaintiff's responsibility to notify the Clerk of the Court and all defense counsel of any change of address, including transfers between institutions or release. Failure to do so in a timely manner will result in dismissal of this case.

Once a civil case is filed, the entire \$350.00 filing fee may be collected even if the prisoner proceeds in forma pauperis and even if the Court later dismisses the case because it is frivolous, malicious, fails to state a claim, seeks monetary relief against a defendant who is immune from such relief, or the allegation of poverty is untrue. See 28 U.S.C. § 1915(e)(2). If plaintiff has no assets at this time, any money later received will be collected in the manner described in 28 U.S.C. § 1915(b).

Accordingly, it is ORDERED that:

(1) plaintiff is granted provisional leave to proceed in forma pauperis, pursuant to 28 U.S.C. § 1915(a);

(2) plaintiffs are directed to correct the above-listed technical defect(s) in this complaint on or before September 22, 2009;

(3) the Clerk of the Court is directed to mail to plaintiff a copy of this Order along with any appropriate forms; and

(4) Failure of plaintiff to comply with this court's order will result in dismissal of this action without further notice to plaintiff.

Dated this 1st day of September, 2009, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX
United States Magistrate Judge